



## **FEDERAL TRADE COMMISSION**

### **16 CFR Part 305**

**[3084-AB15]**

#### **Energy Labeling Rule**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission (“FTC” or “Commission”) issues amendments to update the comparability ranges and sample labels for central air conditioners in the Energy Labeling Rule (“Rule”).

**DATES:** The amendments are effective on January 1, 2023.

**ADDRESSES:** Copies of this document are available on the Commission’s website, [www.ftc.gov](https://www.ftc.gov).

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome (202-326-2889), Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room CC-9528, 600 Pennsylvania Avenue NW, Washington, DC 20580.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Energy Labeling Rule**

The Commission issued the Energy Labeling Rule (“Rule”) in 1979,<sup>1</sup> pursuant to the Energy Policy and Conservation Act of 1975 (“EPCA”).<sup>2</sup> The Rule requires energy labeling for major home appliances and other consumer products to help consumers compare the energy usage and costs of competing models. It also contains labeling requirements for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room and portable air conditioners, furnaces, central air conditioners,

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<sup>1</sup> 44 FR 66466 (Nov. 19, 1979).

<sup>2</sup> 42 U.S.C. 6294. EPCA also requires the Department of Energy (“DOE”) to develop test procedures that measure how much energy appliances use, and to determine the representative average cost a consumer pays for different types of energy.

heat pumps, plumbing products, lighting products, ceiling fans, and televisions.

The Rule requires manufacturers to attach yellow EnergyGuide labels to many of the covered products and prohibits retailers from removing these labels or rendering them illegible. In addition, it directs sellers, including retailers, to post label information on websites and in paper catalogs from which consumers can order products. EnergyGuide labels for most covered products contain three main disclosures: estimated annual energy cost, a product's energy consumption or energy efficiency rating as determined by Department of Energy ("DOE") test procedures, and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models. Under the Rule, the Commission periodically updates comparability range and annual energy cost information based on manufacturer data submitted pursuant to the Rule's reporting requirements.<sup>3</sup>

## **II. Updated Ranges for Central Air Conditioners**

On February 12, 2021 (86 FR 9273), the Commission published conforming rule amendments reflecting new DOE efficiency descriptors on central air conditioner labels to ensure the Rule's consistency with DOE requirements, which become effective on January 1, 2023.<sup>4</sup> In the February document, the Commission stated it would update ranges in appendices H and I, and the sample labels in appendix L, once new efficiency numbers became available.

On June 2, 2021 (86 FR 29533), the Commission proposed to update the comparability ranges for central air conditioners to ensure manufacturers have information available for the upcoming transition to new efficiency descriptors required by DOE.<sup>5</sup> In the June 2021 document, the Commission proposed to update the range

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<sup>3</sup> 16 CFR 305.10.

<sup>4</sup> In 2017, DOE announced changes to the rating methods and associated efficiency descriptors for central air conditioners (*e.g.*, from "Seasonal Energy Efficiency Ratio (SEER)" to "Seasonal Energy Efficiency Ratio 2 (SEER2)"). 82 FR 1786 (Jan. 6, 2017); and 82 FR 24211 (May 26, 2017).

<sup>5</sup> Commissioner Christine S. Wilson issued a dissent stating that the Commission should also seek further comment on broader issues including the "more prescriptive aspects of this Rule" and other changes to

table data (appendices H and I) and sample labels in the Rule (appendix L) using new information from the Air-Conditioning, Heating, & Refrigeration Institute (“AHRI”) and DOE staff input.<sup>6</sup> In response to the June document, the Commission received 31 comments. Commenters were generally supportive of the proposed updates, and none opposed the proposed ranges.<sup>7</sup> Commenters also made various suggestions for EnergyGuide labeling improvements and Rule changes (*e.g.*, the use of QR codes) not directly relevant to the range updates set out in the June document.<sup>8</sup> The Commission may consider these suggestions, which would require further consideration and additional public comment, in connection with future regulatory reviews.

Based on this record, the Commission is finalizing the range amendments in this document.<sup>9</sup> Consistent with the February 2021 amendments to the new energy descriptors, the effective date for these ranges is January 1, 2023. As the Commission stated in the February 2021 document, manufacturers may begin using the new range information prior to that date, in a manner consistent with DOE guidance now that the FTC has issued the final updates to appendices H and I once the FTC issues the final updates to appendices H and I.

### **III. Paperwork Reduction Act**

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (“OMB”) regulations that implement the Paperwork Reduction Act (“PRA”). OMB has

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“maximize the positive impact of this Rule for consumers.”

<sup>6</sup> AHRI is a trade association representing central air conditioner manufacturers.

<sup>7</sup> The comments are posted at [regulations.gov](https://www.regulations.gov).

<sup>8</sup> Two industry commenters (AHRI (#0030-0031) and Goodman (#0030-0032)) urged the Commission to issue the range updates “expeditiously” so that manufacturers “have certainty on the revised EnergyGuide labels and adequate time to implement the labels.” These two commenters also urged the Commission to postpone considering other potential Rule changes discussed in Commissioner Wilson’s dissenting statement.

<sup>9</sup> The final amendments contain a few minor corrections to the sample labels in the June document (the top range number on Prototype Label 3; inclusion of asterisks and updated geographic information on Sample Label 3, and the removal of optional capacity numbers on labels).

approved the Rule's existing information collection requirements through December 31, 2022 (OMB Control No. 3084-0069). The amendments do not change the substance or frequency of the Rule's recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

#### **IV. Regulatory Flexibility Act**

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-612, requires that the Commission conduct an analysis of the anticipated economic impact of the proposed amendment on small entities. The RFA requires that the Commission provide an Initial Regulatory Flexibility Analysis ("IRFA") with a rule unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. The amendments merely update the Rule's appendices to include revised comparability ranges and sample labels for central air conditioners based on more recent data. The proposed amendments do not significantly change the substance or frequency of the recordkeeping, disclosure, or reporting requirements. Thus, the amendments will not have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the RFA (5 U.S.C. 605(b)), that the amendments will not have a significant economic impact on a substantial number of small entities.

#### **V. Other Matters**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a "major rule," as defined by 5 U.S.C. 804(2).

#### **List of Subjects in 16 CFR Part 305**

Advertising, Consumer protection, Energy conservation, Household appliances, Incorporation by reference, Labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Commission amends part 305 of title 16 of the Code of Federal Regulations as follows:

**PART 305--ENERGY AND WATER USE LABELING FOR CONSUMER PRODUCTS UNDER THE ENERGY POLICY AND CONSERVATION ACT (“ENERGY LABELING RULE”)**

1. The authority citation for part 305 continues to read as follows:

**AUTHORITY:** 42 U.S.C. 6294.

2. Revise appendix H to part 305 to read as follows:

**Appendix H to Part 305—Cooling Performance for Central Air Conditioners**

Manufacturer’s rated cooling capacity (btu’s/hr)	Range of SEER2’s	
	Low	High
<b>Single Package Units</b>		
Central Air Conditioners (Cooling Only): All capacities	13.4	19
Heat Pumps (Cooling Function): All capacities	13.4	19
<b>Split System Units</b>		
Central Air Conditioner models allowed only in northern states (listed in §305.20(g)(13)) (Cooling Only): All capacities	13.4	27
Central Air Conditioner models allowed in all states (Cooling Only):		
All capacities	13.8	27
Heat Pumps (Cooling Function): All capacities	14.3	42
Small-duct, high-velocity Systems	12	15
<b>Space-Constrained Products</b>		
Central Air Conditioners (Cooling Only): All capacities	11.7	13.7
Heat Pumps (Cooling Function): All capacities	11.9	13.8

3. Revise appendix I to part 305 to read as follows:

**Appendix I to Part 305—Heating Performance and Cost for Central Air Conditioners**

Manufacturer’s rated heating capacity (Btu’s/hr.)	Range of HSPF2’s	
	Low	High

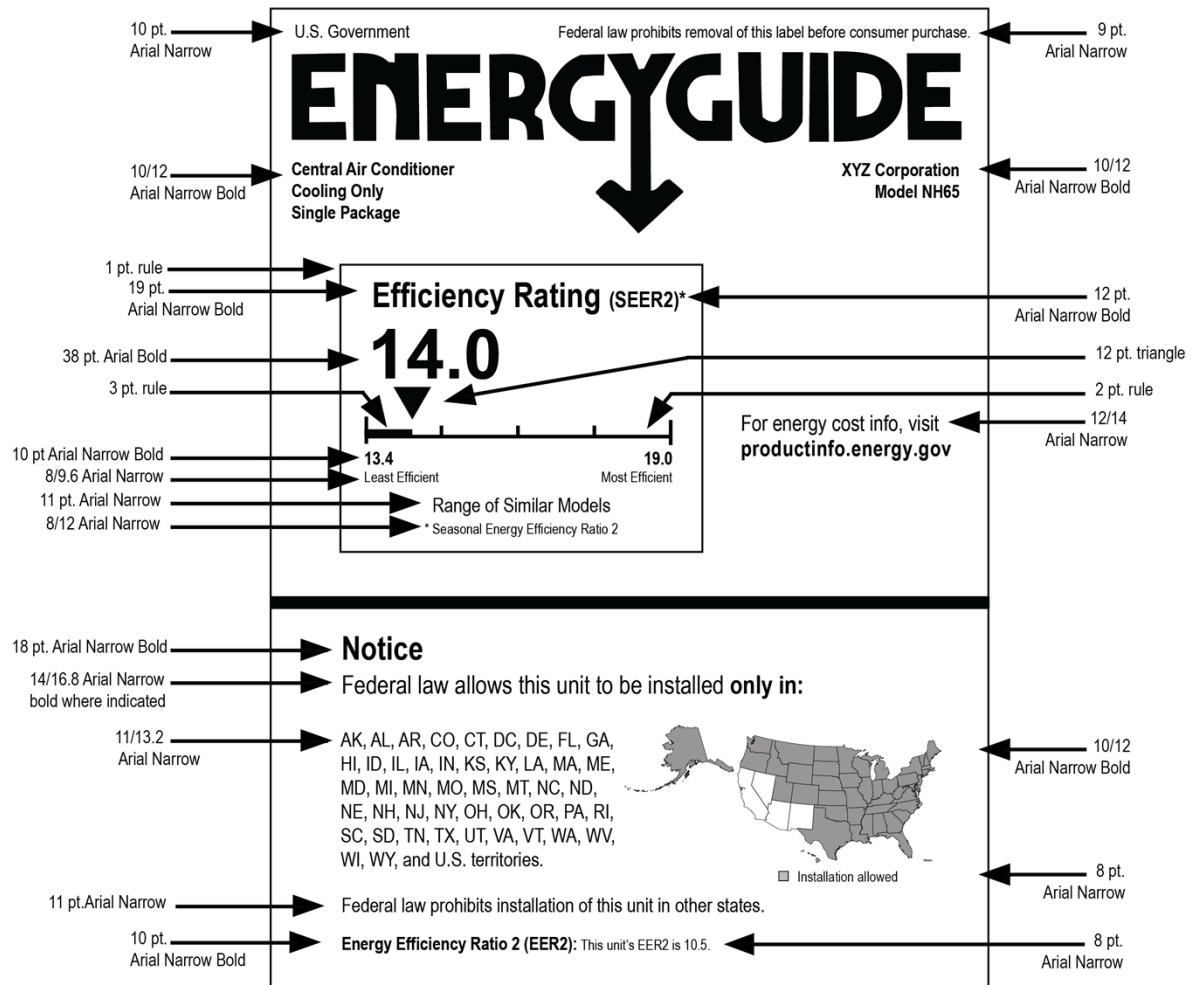
<b>Single Package Units</b>		
Heat Pumps (Heating Function): All capacities	6.7	8.4
<b>Split System Units</b>		
Heat Pumps (Heating Function): All capacities	7.5	14.6
Small-duct, high-velocity Systems	6.1	7.5
<b>Space-Constrained Products</b>		
Heat Pumps (Heating Function): All capacities	6.3	6.5

4. Amend appendix L to part 305 by revising Prototype Label 3, Prototype Label 4, Sample Label 7, and Sample Label 8 to read as follows:

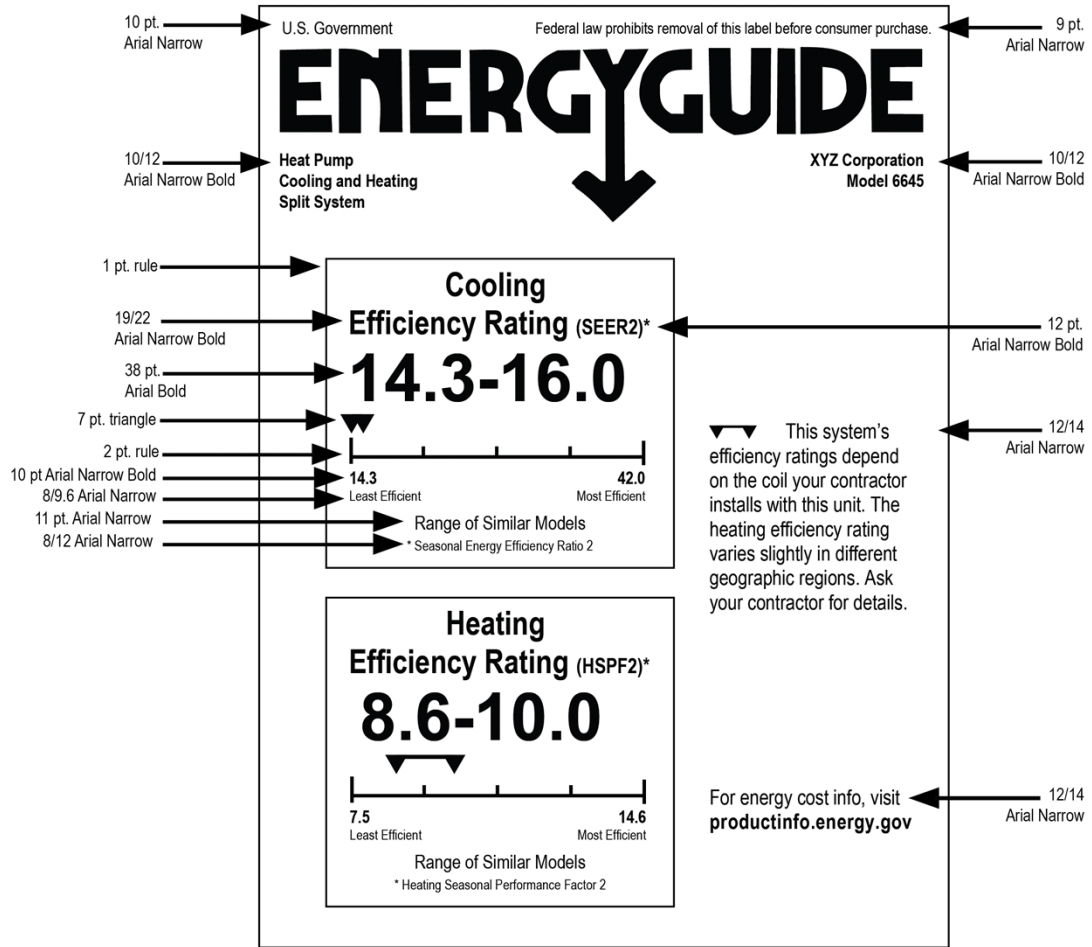
**Appendix L to Part 305 – Sample Labels**

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## Prototype Label 3 – Single-Package Central Air Conditioner



## Prototype Label 4 – Split-system Heat Pump



\* \* \* \* \*

U.S. Government

Federal law prohibits removal of this label before consumer purchase.

# ENERGYGUIDE

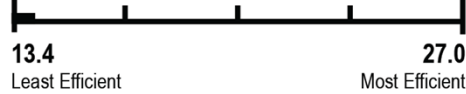
Central Air Conditioner  
Cooling Only  
Split System

XYZ Corporation  
Model NH65



## Efficiency Rating (SEER2)\*\*

14.1



Range of Similar Models

\*\* Seasonal Energy Efficiency Ratio 2

For energy cost info, visit  
[productinfo.energy.gov](http://productinfo.energy.gov)

\* Your air conditioner's efficiency rating may be better depending on the coil your contractor installs.

## Notice

Federal law allows this unit to be installed **only in:**

AK, CO, CT, ID, IL, IA, IN, KS, MA,  
ME, MI, MN, MO, MT, ND, NE, NH  
NJ, NY, OH, OR, PA, RI, SD, UT, VT  
WA, WV, WI, and WY.

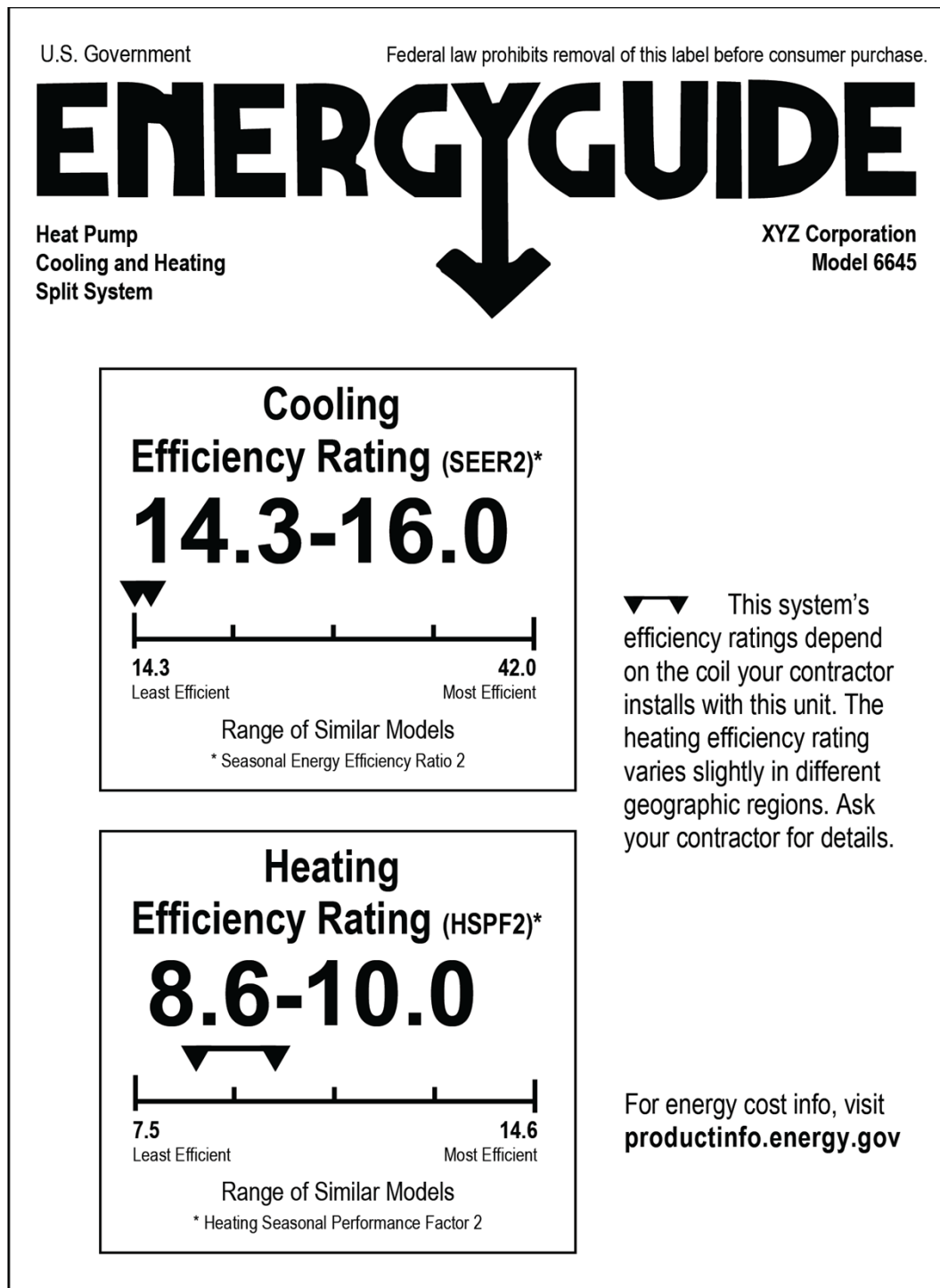


■ Installation allowed

Federal law prohibits installation of this unit in other states.

**Energy Efficiency Ratio 2 (EER2):** This unit's EER2 is 11.6.

Sample Label 8 – Split-system Heat Pump



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By direction of the Commission, Commissioner Wilson dissenting.

**April J. Tabor,**

*Secretary.*

**Note:** The following will not appear in the Code of Federal Regulations.

**Dissenting Statement of Commissioner Christine S. Wilson**

Today the Commission announces required changes to the Energy Labeling Rule but makes no other changes to the Rule. Since 2015, the Commission has sought comment on provisions of this Rule multiple times and has made numerous amendments clarifying the Rule's requirements and making necessary changes. I have repeatedly urged the Commission to seek comment on the more prescriptive aspects of this Rule. I have explained my concerns about the highly prescriptive nature of this Rule in detail in my prior dissents. Regrettably, again today, the Commission chooses to make minor changes to the Rule necessary for conformity but fails to conduct a full review of the Rule to consider removing all dated and prescriptive provisions. For these reasons, I dissent.

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